



S&H Form: (2/01)

Docket No.: 1594.1025

8-27-03
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Jong-Chull SHON

Serial No. 10/005,312

Group Art Unit: 3742

Confirmation No. 7927

Filed: December 7, 2001

Examiner: Quan T. Van

For: MICROWAVE OVEN

RESPONSE TO RESTRICTION REQUIREMENT

RECEIVED

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

AUG 25 2003
TECHNOLOGY CENTER R3700

Sir:

This is responsive to the Office Action mailed July 15, 2003, having a shortened period for response set to expire on August 15, 2003. Pursuant to a Petition for a One-Month Extension of Time filed in U.S. Patent and Trademark Office on August 13, 2003, the one-month extended response due date is September 15, 2003. The following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicant provisionally elects **Group II, claims 16-37** in response to the preliminary restriction requirement set forth in the Office Action.

Further, within Group II, Applicant elects ~~Species IA~~ as shown in FIGs. 3 and 5, which are believed to correspond to claims 16-26 and 29-37.

Lastly, it is respectfully submitted that at least claim 16-26 are generic to the non-elected species found in depending claims 27-28.

II. Applicant Traverses the Requirement

Insofar as Group I is concerned, it is believed that claims 1-15 are so closely related to elected claims 16-37 that they should remain in the same application to avoid imposing any undue burden, expense, and delay on the Applicant in preserving the invention recited in claims 1-15 of Group I. The elected claims 16-37 are drawn to a sensor and a humidity detection system to detect a liquid content in a gas, and claims 1-15 are drawn to a microwave oven

having a humidity detector that detects moisture formed as food is cooked. As such, it is believed that the Examiner's search would naturally encompass both technologies.

There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both product claims in the same field of technology. While it is noted that the Examiner has identified different classifications, it is believed that classification is not conclusive on the question of restriction.

It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicant in having to protect the additional subject matter recited by the Group I claims by filing a divisional application.

MPEP 803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). As such, beyond showing separate classifications, it is respectfully submitted that the Examiner has not set forth sufficient evidence to show that the Examiner will experience a serious burden without imposing restriction which is out of proportion with the serious burden and inconvenience visited upon the Applicant if restriction is required.

Moreover, it is respectfully submitted that at least claims 16 and 30 are generic to the Species IA through IIB as defined by the Examiner. Therefore, it is respectfully requested that the Examiner reconsider the statement on page 3 of the Office Action that asserts that no claim is generic to the species.

III. Conclusion

Upon review of references involved in this field of technology, when considering that the product set forth in claims 1-15 is directed to a microwave oven having a humidity detector to detect humidity in cooked food, and elected claims 16-37 are directed to a sensor and a humidity detection system to detect a liquid content in a gas, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.


In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

If any further fees are required in connection with the filing of this Response, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

Respectfully submitted,

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Date: 8/20/03